

§ 23.65 What factors are considered in making a finding that an applicant is suitably equipped to house and care for a live specimen?

(a) *Purpose.* Under Article III(3)(b) and (5)(b) of the Treaty, an import permit or introduction-from-the-sea certificate for live Appendix-I specimens can be issued only if we are satisfied that the recipients are suitably equipped to house and care for them.

(b) *General principles.* We will follow these general principles in making a decision on whether an applicant has facilities that would provide proper housing to maintain the specimens for the intended purpose and the expertise to provide proper care and husbandry or horticultural practices.

(1) All persons who would be receiving a specimen must be identified in an application and their facilities approved by us, including persons who are likely to receive a specimen within 1 year after it arrives in the United States.

(2) The applicant must provide sufficient information for us to make a finding, including, but not limited to, a description of the facility, photographs, or construction plans, and resumes of the recipient or staff who will care for the specimen.

(3) We use the best available information on the requirements of the species in making a decision and will consult with experts and other Federal and State agencies, as necessary and appropriate.

(4) The degree of scrutiny that we give an application is based on the biological and husbandry or horticultural needs of the species.

(c) *Specific factors considered for wildlife.* In addition to the general provisions in paragraph (e) of this section, we consider the following factors in evaluating suitable housing and care for wildlife:

(1) Enclosures constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

(2) Appropriate forms of environmental enrichment, such as nesting material, perches, climbing apparatus, ground substrate, or other species-specific materials or objects.

(3) If the wildlife is on public display, an off-exhibit area, consisting of indoor and outdoor accommodations, as appropriate, that can house the wildlife on a long-term basis if necessary.

(4) Provision of water and nutritious food of a nature and in a way that are appropriate for the species.

(5) Staff who are trained and experienced in providing proper daily care and maintenance for the species being imported or introduced from the sea, or for a closely related species.

(6) Readily available veterinary care or veterinary staff experienced with the species or a closely related species, including emergency care.

(d) *Specific factors considered for plants.* In addition to the general provisions in paragraph (e) of the section, we consider the following factors in evaluating suitable housing and care for plants:

(1) Sufficient space, appropriate lighting, and other environmental conditions that will ensure proper growth.

(2) Ability to provide appropriate culture, such as water, fertilizer, and pest and disease control.

(3) Staff with experience with the imported species or related species with similar horticultural requirements.

(e) *General factors considered for wildlife and plants.* In addition to the specific provisions in paragraphs (c) or (d) of this section, we will consider the following factors in evaluating suitable housing and care for wildlife and plants:

(1) Adequate enclosures or holding areas to prevent escape or unplanned exchange of genetic material with specimens of the same or different species outside the facility.

(2) Appropriate security to prevent theft of specimens and measures taken to rectify any previous theft or security problem.

(3) A reasonable survival rate of specimens of the same species or, alternatively, closely related species at the facility, mortalities for the previous 3 years, significant injuries to wildlife or

damage to plants, occurrence of significant disease outbreaks during the previous 3 years, and measures taken to prevent similar mortalities, injuries, damage, or diseases. Significant injuries, damage, or disease outbreaks are those that are permanently debilitating or re-occurring.

(4) Sufficient funding on a long-term basis to cover the cost of maintaining the facility and the specimens imported.

(f) *Incomplete facilities or insufficient staff.* For applications submitted to us before the facilities to hold the specimen are completed or the staff is identified or properly trained, we will:

(1) Review all available information, including construction plans or intended staffing, and make a finding based on this information.

(2) Place a condition on any permit that the import cannot occur until the facility has been completed or the staff hired and trained, and approved by us.

Subpart E—International Trade in Certain Specimens

§ 23.68 How can I trade internationally in roots of American ginseng?

(a) *U.S. and foreign general provisions.* Whole plants and roots (whole, sliced, and parts, excluding manufactured parts, products, and derivatives, such as powders, pills, extracts, tonics, teas, and confectionery) of American ginseng (*Panax quinquefolius*), whether wild or artificially propagated, are included in Appendix II. Cultivated American ginseng that does not meet the requirements of artificially propagated will be considered wild for export and re-export purposes. The import, export, or re-export of ginseng roots must meet the requirements of this section and other requirements of this part (see subparts B and C for prohibitions and application procedures). For specimens that were harvested from a State or Tribe without an approved CITES export program, see § 23.36 for export permits and § 23.37 for re-export certificates.

(b) *Export approval of State and tribal programs.* States and Tribes set up and maintain ginseng management and harvest programs designed to monitor and protect American ginseng from

over-harvest. When a State or Tribe with a management program provides us with the necessary information, we make programmatic findings and have specific requirements that allow export under CITES. For wild ginseng, a State or Tribe must provide sufficient information for us to determine that its management program and harvest controls are appropriate to ensure that ginseng harvested within its jurisdiction is legally acquired and that export will not be detrimental to the survival of the species in the wild. For artificially propagated ginseng, a State or Tribe must provide sufficient information for us to determine that ginseng grown within its jurisdiction meets the definition of artificially propagated and the State or Tribe must have procedures in place to minimize the risk that the roots of wild-collected plants would be claimed as artificially propagated.

(1) A State or Tribe seeking initial CITES export program approval for wild or artificially propagated American ginseng must submit the following information on the adoption and implementation of regulatory measures to the U.S. Management Authority:

(i) Laws or regulations mandating licensing or registration of persons buying and selling ginseng in that State or on tribal lands.

(ii) A requirement that ginseng dealers maintain records and provide copies of those records to the appropriate State or tribal management agency upon request. Dealer records must contain: the name and address of the ginseng seller, date of transaction, whether the ginseng is wild or artificially propagated and dried or green at time of transaction, weight of roots, State or Tribe of origin of roots, and identification numbers of the State or tribal certificates used to ship ginseng from the State or Tribe of origin.

(iii) A requirement that State or tribal personnel will inspect roots, ensure legal harvest, and have the ability to determine the age of roots of all wild-collected ginseng harvested in the State or on tribal lands. State or tribal personnel may accept a declaration statement by the licensed or registered dealer or grower that the ginseng roots are artificially propagated.